

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Kimle, et al.
SERIAL NO : 09/335,648
FILED : June 18, 1999
TITLE : METHOD OF ELECTRONICALLY INITIATING AND MANAGING
AGRICULTURAL PRODUCTION CONTRACTS
Grp./A.U. : 2164
Examiner : Kyle, C.
Conf. No. : 6709
Docket No. : P03566US0

**DECLARATION OF PRIOR INVENTION IN THE UNITED STATES OR IN A NAFTA
OR WTO MEMBER COUNTRY TO OVERCOME CITED PATENT OR
PUBLICATION
(37 CFR 1.131)**

Assistant Commissioner for Patents
Washington, D.C. 20231

A. PURPOSE OF DECLARATION

1. This declaration is to establish completion of the invention in this application in the United States, at a date prior to September 4, 1996, that is the effective date of the prior art patent, Walker U.S. Patent 5,794,207, that has been cited by the Examiner in the Office Action of April 27, 2001.
2. The persons making this Declaration are several inventors, who are also officers of E-Markets, Inc., the party in interest, and the President and Chief Operating Officer of E-Markets, Inc.
3. The remaining inventors are no longer with E-Markets, Inc. and their whereabouts are presently unknown.

B. FACTS AND DOCUMENTARY EVIDENCE

4. To establish the date of completion of the invention of this application, the following attached documents are submitted as evidence:

Exhibit A: Reproductions of handwritten notebook entries of one of the inventors (5 pages).

Exhibit B: Reproductions of subsequent notebook entries of one of the inventors (5 pages).

Exhibit C: Reproductions of pages of a draft business plan for the assignee of all interest in the present application (8 pages).

5. From these documents, all of which were created and in existence prior to September 4, 1996, it can be seen that the invention in this application was made at least by the date of September 4, 1996, which is a date earlier than the effective date of the reference. Dates on the documents have been redacted.
6. Specifically, the documents of Exhibits A-C show the following concepts from the claims of the application:
- (a) implementation on the world wide web with a web server.
(See, e.g., Exh. A, page 1 -- "Platforms: 1) separate software... 2) WWW..."; and Exh. C, page 2 -- mock up internet browser page).
 - (b) Use of a central database to store relevant information about buyers and producers
(See, e.g., Exh. A, page 4 -- "...database (and date entry).." and Exh. A, top of page 5, where different information types are mentioned "time", "price", "where", "quality", "quantity"....).

- (c) The type of data to be stored (e.g. type/ amount/ acres/ bushels of agricultural commodity) desired or committed to be produced
(See Exh. A, pages 4-5).
- (d) Input options from prospective buyer(s)
(See Exh. A, page 1 -- "White Corn Bid...Where...When...highest bid...expiration"; Exh. A, page 5 -- "time", "price", "where", "quality", "quantity", "members at a couple levels...", "...members...Enter Acct. #....password...", "...bid prices...", "...post a hit price..."; Exh. B, page 5 -- "E-Contract...Contract pricing...").
- (e) Input options from prospective producer of the product
(See Exh. A, page 1 -- "White Corn market...Deliverable...Where...Bid Ask..."; Exh. A, page 5 -- "time", "price", "where", "quality", "quantity", "members at a couple levels...", "...members...Enter Acct. #....password...", "...bid prices...", "...post a hit price...", "delivery points"; Exh. B, page 2 -- "Members...info you need..."; Exh. B, page 3 -- "Delivery Schedule).
- (f) Generation of a contract memorializing an agreed transaction
(See Exh. A, page 3 -- "Take contracting situation and form info. system to link to electronic transactions features"; Exh. B, page 4 -- "Contract execution..."; Exh. B, page 5 -- "E-contract..."; Exh. C, page 1 -- "Electronic input purchases and coordination...Electronic grain marketing and coordination"; Exh. C, pages 6-8).

C. DILIGENCE

7. From the time of conception, to a time just prior to the date of the reference, applicants diligently moved towards a prototype and filing of applicants' application identified in the caption of this declaration.
8. Exhibits B and C occurred at a time subsequent to the documents of Exhibit A, up to July 1996, just prior to the effective date of the reference.
9. Exhibit C are pages from a business plan that occurred prior to the formation of the business E-Markets, Inc., the assignee of all interest in the present application, in October 1996.
10. In the summer of 1996 through the end of the year, work occurred on the formation of the company, planning, obtaining capital, hiring personnel, and the beginning of work towards a prototype of the invention.
11. In November 1996, a rough prototypical beginning to an actual embodiment of the invention was begun. See Exhibit D: Reproductions of early screen shots of an experimental developmental prototype of the assignee of all interest in the present application (4 pages).
12. Exhibit D shows the prototype of (a) an internet based corn contracting system (Exhibit D, page 1), (b) a screen showing steps including entry of data into a data base, including identification of a producer ("grower"), the type and amount of corn (page 2), (c) a listing of amounts to which the grower is committed(page 1), (d) received data from the grower on goals and allocations of production (page 1), and (e) the generation of a contract between grower and buyer regarding committed amounts and willing-to-buy amounts (page 4).

13. During the first part of 1997, work continued on a prototype, including hiring of personnel to write computer code and development of computer code.
14. A first prototype was reduced to practice in July 1997.
15. The present application relies on a provisional application filing date of June 22, 1998.
16. From July 1997 to June 1998, further development of the business of E-Markets, Inc. occurred.

D. TIME OF PRESENTATION OF THE DECLARATION

17. This declaration is submitted prior to final rejection.

E. DECLARATION

18. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

F. SIGNATURE(S)

19.

Inventor(s)

Full name of first inventor Kevin Kimle

Inventor's Signature Kevin Kimle

Date 8-27-0 Country of Citizenship USA

Residence 3222 Lettie St. Ames, IA 50014

Post Office Address _____

Full name of second inventor David Krog

Inventor's Signature 

Date 8-27-01 Country of Citizenship USA

Residence 546 Waterbury Circle Des Moines, IA 50312

Post Office Address _____

Full name of third inventor Reynold Harder

Inventor's Signature 

Date 8/27/01 Country of Citizenship USA

Residence 502 Ely Circle

Post Office Address Ames IA 50010

Assignee

Printed Name of Person Signing Scott Cavey

Signature of Person Signing 

Title of Person Signing President and COO

Date 8/27/01

Name of Assignee E-Markets Inc.

Post Office Address 1606 Golden Aspen Dr.

Suite 108 Ames IA 50014

Attachments to Declaration: Exhibits A-D

EXHIBIT A

Flour - Cash at Kitz
by - Washed
Food - Wash
Amount

Grain
white
yellow
high oil

circuits for storage & etc

White Corn Market
Deliverable when Bid lot
Apr 96 2500

White Corn Bid
When
When
highest bid
specification

* Can we have a simple tool at first elevators: few bid-wins (and losses) - bright me?

- Platforms:

- 1) Supply Software (London)
- 2) WWW
- 3) Fax - Dayton

* On the animal side can we work w/ IoT & electronically link them w/ customers?

- supply chain light
- their customers use computers or even Dayton to hook up.

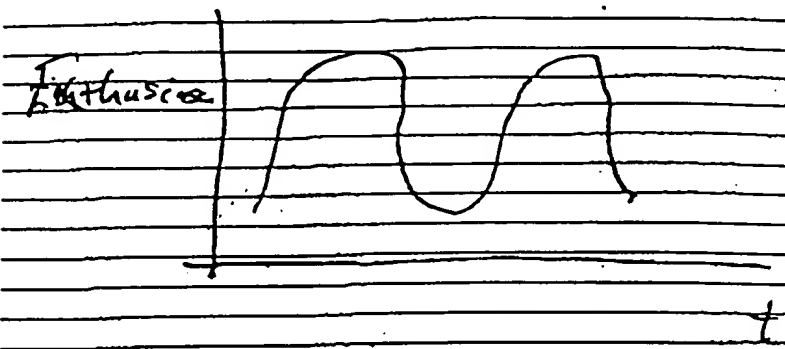
* Dual Strategy

- An electronic "market" on the grain side
- An electronic input system on the animal side

? - or do we hook up w/ these Bus. & power to electronically manage their project?

[redacted] Dave Garry

→ WFFA tapes



→ July 1 evaluation w/ Garry

→ Dinner?

→ Start one tender per 10 users as a rule

Product 2 classes

→ Business-to-Business Transactions
Dom Corp & Int'l corp users... or
an end-user and some Corp

→ International Tenders
→ more effective way of communicating
Tenders allow for export markets
→ only a few exporters

→ Contract process mgt system
→ Fitch, Siskay

→ Specialties Tenders
→ Tenders are custom for small volume,
specific quality stuff

Product Areas:

- offer
1) Tenders Communication and processing
- specific offer - non-specific customers
- 2) Business-to-Business transaction
- specific 2 customer set-up

Product strategy from weekend

→ Take Contracting situations and focus
info. system & lead to electronic
transactions future

→ 4 markets:

- 1) High Oil Cane
- 2) Waxy Cane
- 3) White Cane
- 4) yellow high quality (Kod)

Low Croshy tidbits

* Check out "CommerceNet"

- Iowa Institute of Cooperatives is
doing some market stuff for
member Coops; specialty grains
- Agribusiness Association of Iowa
also doing some activities
→ willing to fund?

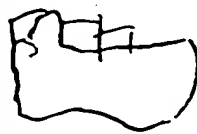
- "Revamp" - Dept. of Ag program --
\$24,000 for bus. plan dev.

Pat Paustian Dept. of Ag
281-6936

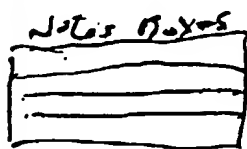
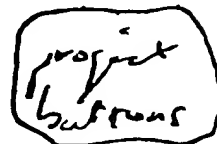
* Sending info. on
REVAMP program

Contacts Database

Early ideas:



tab pages



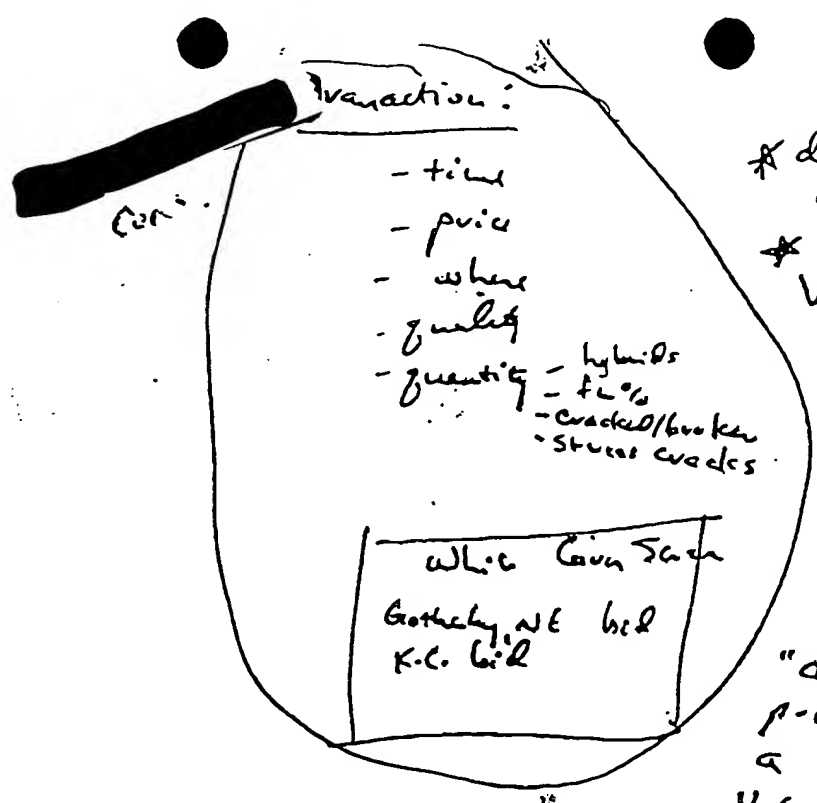
- Grouping is key relational link
- Each sector is separate database
- separate databases for survey stuff, financials, etc...

→ How can we quickly link today's IT database
al tomorrow's Contact database??

- * → make a separate linked database
for 1) C. i.d. (key relational link)
2) ^{key} Contacts, mgs., etc...
3) Survey info

* Start del. w/ organizing the "IT"
portion of database (and data entry)

→ linking each sector into
separate relational links
w/ slightly differing
sections



Major Delivery Points:

- Furt → Holstein Tx, Sedgely IL, Gothic NE
- Bartlett → Kansas City + a few elevators (NE)
- Quaker → Cedar Rapids, KC + ^{some} Engell elevators (SE SA)
- Winco → Red Oaks
- Several in Texas - Aztec Valley - 1000
- Waleshoe, TX - Texas Sweets Aztec

WA
 IL
 IN
 IA
 MO
 CA
 TX
 NE

Little guys
 * 30-40 total locations

EXHIBIT B

Dave

Frito Example

Frito

Futures

Seed

Costs

Estimate

- ↳ less man-hours
- ↳ less time sorting seed related data
- ↳ less time getting updates on crop conditions
- ↳ less paperwork
- ↳ less mail, phone costs
- ↳ less contracting through time

Better Open Market Purchases

Better Communication
Less precise information

Contract Aspects:

- write it
- sell it
 - travel
 - phone
 - mail
- pricing
- Coordinate w/ growers, etc...

Settle disputes
logistics
delivery

High Oleic Sunflower

100,000 acres

guy in Dakota \$30/acre
from 1.5 people (120K) = \$1.20/acre
grower expense (200 grower) 7 harvests \$1.5/acre
sales exp cost \$1.30/acre
4 phone @ \$1 = \$4/acre

Compared to
\$5,000 (10 acres)
for 100 acres
it is

Ex. B 115

Opening page

MARKETS

TL Electronic operating system
for Ag & the Food Industry

... Members

... F&E - into you need

... Tools - to build a better
understanding of your
business, markets,
& industry

... Electronic markets -
by and sell in the market
of tomorrow... today!

- Who we are

- What we do

- Contact us

"members" at a
couple levels --
→ major users like F&E
→ associated members --
the transactions...
but can view some
information

... members



Enter Acct. &
password

are How to Establish Acct.

Opening Pg. for F&E
- Members - F&E

... F&E
... Tools
... Electronic markets

- Contact F&E

Done * "Customize"
but you
* daily updates
* scheduling schedule

Contract pricing

- issue a bid → a basis bid (morning)
- check prices later in the day
 - ⇒ how much is priced and who

Cont

Delivery Schedule

- Check schedule for 1st week of January
- there are gaps so

Go to F-wallet's Transactions

15

- Hand lines
- Lines
- Wharfedale
- Stock with
- weather

Elek. ukt.

- lkt. update
- + transaction
- ~~lkt. update~~
- lkt. history

Tools

- Supply / demand estimates
- GIS maps
- Trials / hybrid info.
- Industry profiles
- Specialty Genivir /
Diagnostics mkt. Overview
- Valuation.

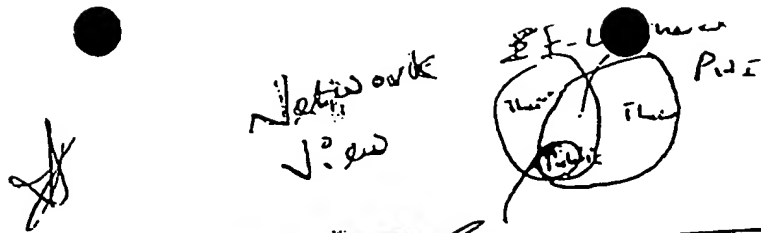
Connect

- Supplier Mgt System
 - transactions
 - Contract execution
 - Contract status
 - pricing
 - delivery system
 - crop conditions
 - forum
 - Email

5. social
- Companies
- Communication
- by bonds, direct
 - reveals
 - traits

L Brokers / 2 hours

© 1994 Franklin Quest Co. Printed in USA *Combin.* *transitions* *act.* *let to -* *Cherry*



Modules				
F-Tools	F-Contract	F-CONNECT	F-INFO	F-INTERACT
-S/G	Contract exec.	Suppl. ar.	Food & Cn	Wkt. up
Est.	Contract status	→ trans	Health	up
map	Contract pricing	→ Act. status	→ future	→ trans
Crop database	delivery system	→ delivery system	weather	Wkt. Lim...
	Forum	→ Forum	ISOA stuff	
	Crop Conditions	→ Forum		
	Communic	Seed:		
		Companies		
		Crop/Seed database		
		Forum		
		Commun.		

- De Boer (sp?) in Cedar Rapids has walking the fields product from Monsanto to rpt. Crop Conditions
- Wants to work it through Fritz
 - himself on prototype
 - Paper on Co. by Monday
 - There is beer (plant manager)
 - There are "group" in late Aug
 - Sept. in Dallas
- Crop exec. part of system??
- Now very interested in B. Elec. mkt. sys. it, but questions how to get everyone on.

EXHIBIT C

Competitive and complementary delivery systems

Ex 11/8

Link/Farhad Daye	Information	Communication	Transactions
	<ul style="list-style-type: none"> ◆ Futures price quotes ◆ Cash price quotes ◆ Weather forecasts ◆ Weather maps ◆ USDA reports ◆ Private reports ◆ Stock quotes ◆ News wire 	<ul style="list-style-type: none"> ◆ Targeted messages ◆ Farmers 	
Internet	<ul style="list-style-type: none"> ◆ Varied and extensive 	<ul style="list-style-type: none"> ◆ Unsecured two-way communication today 	<ul style="list-style-type: none"> ◆ Not yet
TV/radio	<ul style="list-style-type: none"> ◆ Varied 	<ul style="list-style-type: none"> ◆ Broadcast messages 	
Periodicals	<ul style="list-style-type: none"> ◆ Varied 	<ul style="list-style-type: none"> ◆ Broadcast messages 	
Telephone	<ul style="list-style-type: none"> ◆ Limited 	<ul style="list-style-type: none"> ◆ Two-way one-to-one communication 	<ul style="list-style-type: none"> ◆ Tele-Marketing
Personal	<ul style="list-style-type: none"> ◆ Targeted 	<ul style="list-style-type: none"> ◆ One-on-one 	<ul style="list-style-type: none"> ◆ Widely used
Mail	<ul style="list-style-type: none"> ◆ Varied 	<ul style="list-style-type: none"> ◆ Two-way but slow 	<ul style="list-style-type: none"> ◆ Widely used
E-Markets	<ul style="list-style-type: none"> ◆ Customized information depending on the need 	<ul style="list-style-type: none"> ◆ Secure e-mail ◆ Secure document transfer 	<ul style="list-style-type: none"> ◆ Electronic input purchases and coordination ◆ Electronic grain marketing and coordination ◆ Electronic livestock marketing and coordination ◆ Electronic bank transfers

A:\Elec Mkst\htm



The Business Center for [redacted] its Suppliers, Partners, and Customers

Electronic Markets

Which Market?

White Corn

Yellow Corn

Quality Grade Yellow Corn

High Oil Corn

Quality Grade Soybeans

High Methionine Soybeans

..... Choose which of the active electronic markets you wish to view

Electronic Market Update ☐ Perform Transaction ☐ Market History

[E-MARKETS HOME PAGE](#)

[Contact E-MARKETS](#)



The Business Center for [redacted] its Suppliers, Partners, and Customers

FYIInformation you need for your business

ToolsTools to build a better understanding of your markets and business

ConnectLink to industries, suppliers, and customers through the E-MARKETS network

Electronic MarketsBuy and sell in the markets of tomorrow...today!

E-MARKETS HOME PAGE

Contact E-MARKETS



C 3/8





The Business Center for [REDACTED] Its Suppliers, Partners, and Customers

Electronic Markets

Which Market?

☐ White Corn ☐ Choose which of the active electronic markets you wish to view

☐ Electronic Market Update ☐ Perform Transaction ☐ Market History

E-MARKETS HOME PAGE

Contact E-MARKETS

C 4/8



The Electronic Operating System for Agribusiness and the Food Industry

Members EntryMembers enter their E-MARKETS Business Center

FYI ...Information you need for your business

ToolsTools to build a better understanding of your markets and business

ConnectLink to industries, suppliers, and customers through the E-MARKETS network

Electronic MarketsBuy and sell in the markets of tomorrow...today!

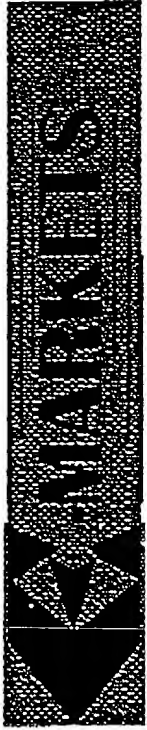
Who is E-MARKETS?

What does E-MARKETS do?

Who does E-MARKETS serve?

Contact E-MARKETS

C 5/8



The Electronic Operating System for Agribusiness and the Food Industry

Who is E-MARKETS?

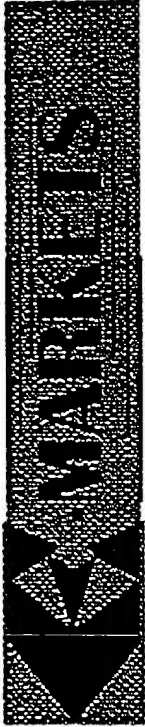
A company with a mission of helping individuals and organizations in agribusiness and the food industry work together more effectively in delivering products to the consumer. We are committed to connecting disparate elements of the food system through the application of cutting-edge information technologies.

E-MARKETS is a network of information, communication, and secure electronic transactions for agribusiness and the food industry. Our innovative network technologies break down information and communication barriers that exist today in the food system, and serve as the electronic operating system for emerging systems of integrated food production and delivery. We provide an efficient and secure connection across organizations and individuals. We provide a new means for organizations to interact and do business with their suppliers, their customers, and even within their own organizations. We design and develop the products and services that allow users to maximize the value of information and capabilities available through the network.

E-MARKETS has broad-based skills and experience in agribusiness and the food industry. Our skills and abilities are focused on identifying and understanding the information and business needs of agribusiness and the food industry. We then put our information and networking technology skills to work in order to address these needs.

An important source of our skills, knowledge, and experience comes from our partners and consulting associates. Our partners include leading edge network technology companies. And our consultants provide a wide range of information and communication technology, agribusiness, and food expertise.

C 6/8



The Electronic Operating System for Agribusiness and the Food Industry

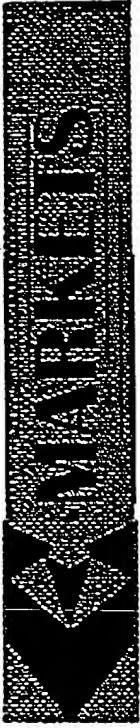
What does E-MARKETS do?

We are transforming the food system by creating electronic market and coordination systems for agribusiness and food interests. We create innovative solutions for the ways individuals and organizations conduct business, and improve the means of 1) information flow, 2) communication, and 3) conducting transactions across industries.

Performance in the food system has been characterized by intense competition within industries, but very little coordination across industries. E-MARKETS is transforming the food system through its role as the electronic operating system of agribusiness and the food industry. E-MARKETS breaks down the barriers between the different industries and sectors of the food chain, to promote effective delivery of right food products to the consumer at the right price and right time.

We provide an advanced, centralized application server that provides an industrial strength platform for on-line electronic commerce and business services. Our network represents a complete solution by offering total versatility and flexibility in use, the ability to scale effectively for any size transaction, and complete security.

C 7/8



The Electronic Operating System for Agribusiness and the Food Industry

Who does E-MARKETS serve?

We ultimately serve food consumers, and work with anyone who shares our desire to deliver the right food products, at the right time, for the right price. Our clients include a broad spectrum of ag and food interests including input suppliers, farmers, grain elevators and merchandisers, grain and food processors, food wholesalers and retailers, and ultimately consumers.

We are committed to improving information flow throughout the food system, and will continue to act as an objective conduit for its improvement. We remain steadfast in our commitments to:

- high standards of quality
- entrepreneurial activity in agribusiness and the food industry
- the absolute security and integrity of information and electronic commerce
- reliability and dependability of electronic networks
- overall excellence in delivering the food products consumers desire

C 8/8



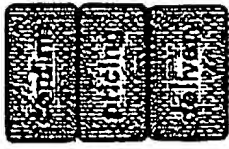
EXHIBIT D

EBSHARE\WWW\ROOT\prototype\netcontract\CONTRACTconfirm.HTM



John Doe **group messaging** **QCP database** **QCP Information**

Contract Confirmation Summary,



Contract ID	Contract Value	Contract Status	Contract Completion
26,480	40,000	66.2 %	
12,720	25,000	50.9 %	
10,440	30,000	34.8 %	
3,680	15,000	24.5 %	
53,320	110,000	48.5 %	

Address: [Redacted]
 City: [Redacted]
 State: [Redacted]
 Zip: [Redacted]
 E-mail: [Redacted]
 Phone: [Redacted]
 Fax: [Redacted]
 URL: [Redacted]
 Name: [Redacted]
 Title: [Redacted]
 Company: [Redacted]
 Address: [Redacted]
 City: [Redacted]
 State: [Redacted]
 Zip: [Redacted]
 E-mail: [Redacted]
 Phone: [Redacted]
 Fax: [Redacted]
 URL: [Redacted]
 Name: [Redacted]
 Title: [Redacted]
 Company: [Redacted]

Address: [Redacted]
 City: [Redacted]
 State: [Redacted]
 Zip: [Redacted]
 E-mail: [Redacted]
 Phone: [Redacted]
 Fax: [Redacted]
 URL: [Redacted]
 Name: [Redacted]
 Title: [Redacted]
 Company: [Redacted]

QCP Information

Contract Management

QCP Database

John Doe

Updated 9:04 CST

scheduling	[Redacted]	Joe Leeper, Goodgene	Please note the change of schedule for next week's grower meeting. We will now meet at 9:00 a.m.
contracts	[Redacted]	Bob Guy, FCPA	It now appears that most contracted acres will come in above initial yield estimates.
delivery	[Redacted]	Liz Smith, Logistics	We will begin scheduling acres deliveries starting January and February
scheduling	[Redacted]	Joe Leeper, Goodgene	Growers should expect a call from their Goodgene representative after [Redacted]
delivery	[Redacted]	Gary Sifter, Logistics	November deliveries will all shift to the South Pit because of immediate loading needs.
announce	[Redacted]	Linda Keeper, Goodgene	The annual grower appreciation dinner has been shifted to [Redacted] at 7:00 p.m.
contracts	[Redacted]	Mark Kenney, Logistics	Estimated contract acreage for next year is 20 percent higher.

960278

960278

Quality Corn Project

Agreement to Grow Corn

THIS AGREEMENT is made this _____ between _____ (hereinafter "GROWER") and Logistics Grain Company, relating to the production and delivery of corn grain from certain corn hybrid seed. GROWER and LOGISTICS are experienced and knowledgeable in the business practices involved in the cultivation and sale of corn.

1. GENERAL TERMS

GROWER shall produce and deliver an "Identity Preserved" crop from SEED purchased from Goodgene Seed Company. GROWER shall produce the highest quality grain possible to satisfy the specifications in Article 3. GROWER agrees to sell and deliver the total production of GRAIN to LOGISTICS or its designee. GROWER shall take all measures to prevent contaminants during growing and handling GRAIN.

- a. GROWER agrees to grow _____ acres of GRAIN.
- b. GROWER will purchase _____ units from Goodgene seed company
- c. GROWER is to request and read the specifications and the complete Limitation of Warranty and Liability associated with the specific SEED purchased for use under this Agreement.
- d. GROWER grants LOGISTICS and/or its appointed agents free and easy access to the fields to inspect, evaluate and monitor

D 4/4